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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,641	07/26/1999	LUIS FELIPE CABRERA	2130	5763

7590 11/18/2002

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EXAMINER
LE, DIEU MINH T

ART UNIT	PAPER NUMBER
2184	

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/361,641	Applicant(s) CABRERA ET AL.	
	Examiner Dieu-Minh Le	Art Unit 2184	

-- The MAILING DATE of this communication appears on the cover sheet with the corresp ndence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 September 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. This Office Action is in response to the amendment filed September 03, 2002 in application 09/361,641.

2. Claims 1-48 are again presented for examination.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-48 are again rejected under 35 U.S.C. § 103(a) as being unpatentable Claims 1-48 are rejected under 35 U.S.C. § 103(a) as being unpatentable McGill, III et al. (US Patent 5,469,573 hereafter referred to as McGill) in view of Hugard et al. (US Patent 5,5,745,669 hereafter referred to as Hugard).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 4, paragraphs 3-4 mailed February 26, 2002.
As per claims 1-48, see the previous office action for the teaching of McGill and Hugard as well as the reasons and motivation for combined.

Applicant asserts that McGill in combining with Hugard fail to teach or suggest the following:

a. the concept of automated system recovery via backup and restoration of system state information;

b. interpreting data that can configure any system hardware upon restore.

c. the concept of writing/reading system state information to/from a medium in a defined format.

Examiner respectfully transverses Applicant's arguments as follows:

a. Firstly, it is not true that McGill in combining with Hugard fail to teach "the concept of automated system recovery via backup and restoration of system state information". Examiner would like to re-emphasize the McGill's computer backup and recover system comprising a connectivity among memory, CPU, drivers, system configuration, etc... [fig. 1 and 2] for reading, writing, loading, copying, configuring, etc... data within the computer system [col. 2, lines 3-67]. One ordinary skill in the art would easily realize that the McGill's system does clearly deal with data backup and recovery via a computer data configuration (i.e., system state information). One ordinary skill in the art can use the McGill's

configuration as the system state information to process data backup and recovery in ensuring computer operated uninterruptedly.

Secondly, Applicant indicated that the "system state information including storage mechanism configuration data and data for operating a backup device". This feature is clearly illustrated in McGill's computer backup and recover system via capabilities or mechanism of system files used for configured operating system onto the storage device, configuring specific file data files, initializing the data processing system for configuring the data processing system, loading and processing data, reinitializing the data processing system from the configured operating system [col. 8, lines 61 through col. 9, lines 11]. As an ordinary skill in the art at the time of applicant's invention to use these capabilities or mechanism to backup and recovery the data within the computer data processing system.

Thirdly, as indicated in previous office action that McGill teaches a method for backing up and restoring a computer system [abstract, fig. 2, col. 1, lines 1-6] comprising writing information/data to first medium, writing data files via

the backup device to a second medium, reading information from the first medium, enabling the operation of the backup device, operation the backup device to restore the data files [col. 2, lines 28-31].

Even thought McGill does not explicitly teach system state information.

However, McGill does disclose capability of data information including operating system files, system configuration files, device driver files, and any other files necessary to properly configure and operate the workstation.

In addition, Hugard explicitly teaches a backup and restoring data configuration system comprising computer configuration data including AUTOEXEC.BAT, CONFIG.SYS, SYSTEM.INI, etc... configuration files and recovery tool files including *.INI, *.DRV, *.SYS, *.COM, *.EXE, etc...

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made first, to realize McGill's computer system comprising failure detection, backup and recovery function, executing data

parameter (i.e., data configurations), receiving, storing data, etc..., and more specifically data information including operating system files, system configuration files, device driver files, and any other files necessary to properly configure and operate the workstation [col. 3, lines 51-58], recovery configuration for the system [fig. 3, col. 4, lines 24-39] as being the system state information as claimed by Applicant since the system state or data restoring and recovering are used to recover data or constructing data which has been lost via power failure, system crash, viruses, catastrophic failure; second, one would and can modify the McGill's computer system comprising failure detection, backup and recovery function, executing data parameter (i.e., data configurations), receiving, storing data, failure detection and recovery function, executing data parameter (i.e., data configurations), receiving, storing data, etc...to explicitly including computer configuration data [col. 16, lines 6-15] including AUTOEXEC.BAT, CONFIG.SYS, SYSTEM.INI, etc... [col. 10, lines 6-22] and configuration files and recovery tool files including *.INI, *.DRV, *.SYS, *.COM, *.EXE, etc... [col. 12, lines 41-67] as taught by Hugard in supporting the system's error detecting and locating failure

errors capabilities, error displaying capability, fault detection and signaling, error tracking, monitoring, as well as comparison for data testing, a signature analysis, a fault testing, fault detection and signaling via backup and restoring capabilities within the computer system.

This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to provide the error handling within a error detection and recovery of computer data system, more specifically to the backup and restoring a computer system with a mechanism to enhance the computer system availability, performance throughput, and error free processing therein. It is further obvious because by utilizing this approach, the backup and restoring (i.e., error detection and recovery) system can be realized in any error or failure occurred in a computer data system can be identified, detected, corrected via data comparison/checking, data receiving and executing, etc.. ;

b. Firstly, it is not true that McGill in combining with Hugard fail to teach the "interpreting data that can configure any system hardware upon restore". McGill disclose capability of data information including operating system files,

system configuration files, device driver files, and any other files necessary to properly configure and operate the workstation. And other hand, Hugard explicitly teaches a backup and restoring data configuration system comprising computer configuration data including AUTOEXEC.BAT, CONFIG.SYS, SYSTEM.INI, etc... configuration files and recovery tool files including *.INI, *.DRV, *.SYS, *.COM, *.EXE, etc... This is clearly shown that both McGill and Hugard's inventions do deal with the interpretation of data for configuring computer system hardware upon restore. It is further obvious to an ordinary skill in the art because with performing the interpretation of data computer can not perform the data backup and recovery process.

Secondly, McGill teaches a method for restoring a computer system comprising accessing information/data including hard disk configuration, creating a restoration environment, executing recovery instruction information [col. 2, lines 23-31] (i.e., data information executing including operating system files, system configuration files, device driver files, data information including operating system files, system configuration files, device driver files, and any other

files necessary to properly configure and operate the workstation [col. 3, lines 51-58].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made first, to realize McGill's computer system comprising failure detection, backup and recovery function, executing data parameter (i.e., data configurations), receiving, storing data, etc..., and more specifically data information including operating system files, system configuration files, device driver files, and any other files necessary to properly configure and operate the workstation as being the "interpreting data that can configure any system hardware upon restore" as claimed by Applicant since the McGill's above capabilities do perform data procedure, process, and configure data for data backup and restoration.

c. It is not true that true that McGill in combining with Hugard fail to teach the "the concept of writing/reading system state information to/from a medium in a defined format". McGill explicitly teaches the data configuration (i.e., McGill's computer backup and recover system comprising a connectivity among memory, CPU, drivers, system configuration,

etc... [fig. 1 and 2] for reading, writing, loading, copying, configuring, etc... data within the computer system [col. 2, lines 3-67]) in a certain format (or defined format) used to ensuring data backup process properly [fig 5, col. 6, lines 59 through col. 7, lines 5. In addition, McGill teaches the use of FORMAT. COM utility to perform data process, format, partition correctly [col. 7, lines 38-58]. It would have been obvious to an ordinary skill in the art to implement McGill format commands to performing data read/write to and from medium in performing the computer backup and recover system.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (703) 305-9408. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel, can be reached on (703)305-9713. The fax phone number for this Group is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this final action should be mailed to:

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7238, (for formal communications; please mark "EXPEDITED PROCEDURE")

Or:

(703) 746-7240(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2184

DML
11/14/02